

of a law providing for the guaranteeing of bank deposits.

We, with what we know to be a very large majority of the people of this section, desire a law which will provide a fund for the immediate payment of depositors upon the failure or suspension of a bank, a law based on the mutual guarantee principle, and not a bonding law which will entail delay and possibly litigation before depositors can be paid.

We believe that such law will promote and restore confidence among the masses and prove inestimably beneficial to the country, and we believe it to be your duty to enact such law.

Numerously signed.

NINETEENTH DAY.

Senate Chamber,
Austin, Texas,
Friday, May 7, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

The roll was called, a quorum being present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Murray.	Willacy.

Absent.

Meachum.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Cofer, the same was dispensed with.

Morning call concluded.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after their captions had been read, the following House bills

(see Fourth House Message of yesterday for captions of):

House bill No. 51, referred to Committee on State Affairs.

House bill No. 52, referred to Committee on State Affairs.

Here the Senate stood at ease for 30 minutes, on motion of Senator Watson. The Senate was again called to order by Lieutenant Governor Davidson.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

House bill No. 53, A bill to be entitled "An Act providing for the election, qualification, bond and duties of the State Treasurer, and the duties of his employees; providing a complete system of accounting, bookkeeping and auditing the accounts of the Treasury Department; providing for the appointment of a chief clerk, prescribing his duties; providing methods for the receiving and handling of all funds, warrants and other claims."

Respectfully,

BOB BARKER,
Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after its caption had been read, the following House bill (see above House Message for caption):

House bill No. 53, referred to Committee on State Affairs.

HOUSE BILL NO. 18.

Action then recurred on House bill No. 18, the question being on Sam Houston Normal, and there being no more amendments, this department was passed.

NORTH TEXAS STATE NORMAL.

Senator Kellie offered the following amendment:

Amend the bill by striking out line 18, page 28.

(Senator Cofer in the chair.)

Senator Hayter moved to table the amendment, which motion to table was adopted by the following vote:

Yeas—22.

Adams.	Perkins.
Alexander.	Real.
Cofer.	Stokes.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Hudspeth.	Thomas.
Masterson.	Ward.
Mayfield.	Watson.
Paulus.	Weinert.
Peeler.	Willacy.

Nays—6.

Bryan.	Kellie.
Holsey.	Murray.
Hume.	Senter.

Absent.

Brachfield.	Veale.
Meachum.	

There being no other amendments to this department, the same was passed on motion of Senator Hayter.

THE SOUTHWEST TEXAS NORMAL SCHOOL AT SAN MARCOS.

Senator Paulus offered the following amendment, which was read and adopted:

Amend the bill, page 30, by adding between lines 7 and 8 the following:

"Providing that the State Board of Education shall have the principals of these Normal Schools so arrange the courses of study that hereafter the same uniform course of study shall be used in each of said Normals."

PAULUS.
WEINERT.

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill, lines 16 to 18, page 29, by striking out said lines and insert the following:

"For buying a plot or plots of ground as near the Southwest Normal grounds as will be practicably convenient for the students of said Normal, said lots to be used for athletics and experiments in agriculture, \$1500, or so much thereof as may be necessary."

ALEXANDER,
WEINERT.

There being no other amendments, this department was passed, on motion of Senator Weinert.

EXECUTIVE SESSION.

Here the Chair announced that the hour for the Senate to go into Executive Session had arrived, and directed that the chamber be cleared of all not entitled to remain.

In Executive Session the following confirmation was made:

Walter Tips to be member of Board of Penitentiary Commissioners.

IN THE SENATE.

HOUSE BILL NO. 51.

On motion of Senator Bryan, the pending order of business (House bill No. 18) was suspended, and the Senate took up, out of its order, House bill No. 51 by the following vote:

Yeas—25.

Adams.	Murray.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	

Absent.

Brachfield.	Sturgeon.
Meachum.	Veale.
Paulus.	Willacy.

On motion of Senator Bryan, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its second reading by the following vote:

Yeas—25.

Adams.	Peeler.
Alexander.	Perkins.
Bryan.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Murray.	

Absent.

Brachfield.	Paulus.
Cofer.	Sturgeon.
Meachum.	Veale.

(Senator Weinert in the chair.)

On motion of Senator Bryan, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report) by the following vote:

Yeas—26.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Stokes.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Thomas.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Murray.	Willacy.

Absent.

Brachfield.	Sturgeon.
Cofer.	Veale.
Meachum.	

The Chair laid before the Senate, on second reading,

House bill No. 51, A bill to be entitled "An Act relating to, and to provide for a more systematic, efficient and economical method of bookkeeping and accounting for the General Land Office of the State of Texas, as pertains to the keeping of accounts and data relative to the public lands of the State, the sales thereof, and payment and collection of principal and interest thereon, and providing for forfeiture and cancellation of sales; repealing Article 4046 of Chapter 2 of Title 87 of the Revised Civil Statutes of 1895, relating to the filing and endorsement of papers and documents placed in the General Land Office; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

The committee report, which provided that the bill be not printed, was adopted.

(Senator Cofer in the chair.)

Senator Hudspeth offered the following amendment:

Amend House bill No. 51, Section 1, line 5, by striking out the following words: "in Austin."

Also strike out of Section 2, page 2, the words: "in Austin."

Also strike out of Section 4, page 3, the words "in Austin."

Pending discussion on the above bill, Senator Bryan moved that the bill be laid on the table subject to call following the final consideration of the general appropriation bill.

The motion was adopted.

HOUSE BILL NO. 18.

Action then recurred on House bill No. 18, the question being on the

GIRLS' INDUSTRIAL COLLEGE.

Senator Hayter offered the following amendment:

Amend the bill, page 32, line 4, by striking out the following figures: "\$35,000" and insert in lieu thereof "\$50,000."

Senator Kellie moved to table the amendment, which motion to table was lost by the following vote:

Yeas—8.

Holsey.	Paulus.
Kellie.	Stokes.
Mayfield.	Sturgeon.
Murray.	Thomas.

Nays—20.

Adams.	Peeler.
Alexander.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Hayter.	Ward.
Hudspeth.	Watson.
Hume.	Weinert.
Masterson.	Willacy.

Absent.

Brachfield.	Veale.
Meachum.	

The amendment was then adopted by the following vote:

Yeas—20.

Adams.	Hume.
Alexander.	Masterson.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.

Ward.
Watson.

Weinert.
Willacy.

Nays—8.

Holsey.
Kellie.
Mayfield.
Murray.

Paulus.
Stokes.
Sturgeon.
Thomas.

Absent.

Brachfield.
Meachum.

Veale.

There being no further amendments, the department was passed on motion of Senator Sturgeon.

AGRICULTURAL AND MECHANICAL COLLEGE.

No amendments, and department was passed on motion of Senator Harper.

PRAIRIE VIEW NORMAL (COL- ORED.)

Senator Kellie offered the following amendment:

Amend the bill by striking out line 27, page 36.

The amendment was tabled, on motion of Senator Willacy.

This department was then passed, on motion of Senator Weinert.

TEXAS STATE BOARD OF HEALTH.

Senator Murray offered the following amendment:

Amend page 40, between lines 23 and 24, by adding the following: "There is hereby appropriated for the use of the State Board of Health the sum of \$5000 for the purposes of investigation and research and for the dissemination of information as to the extent, nature, prevention and cure of tuberculosis in the State of Texas; and for preparing a report of their investigations to be submitted to the next Legislature with recommendations as to the best method of management and control in the prevention of the disease in this State."

Senator Sturgeon moved to table the amendment, which motion was lost by the following vote:

Yeas—10.

Greer.
Hudspeth.
Mayfield.
Paulus.
Real.

Stokes.
Sturgeon.
Ward.
Watson.
Weinert.

Nays—15.

Adams.
Bryan.
Cofer.
Harper.
Hayter.
Hume.
Kellie.
Masterson.

Murray.
Peeler.
Senter.
Terrell of Bowie.
Terrell of McLennan.
Veale.
Willacy.

Absent.

Alexander.
Brachfield.
Holsey.

Meachum.
Perkins.
Thomas.

Pending discussion, Senator Terrell of Bowie offered the following amendment to the amendment:

Amend the amendment by adding thereto the following: "Provided, that no extra person shall be employed by the Board of Health to carry out the provisions of this item."

Senator Watson offered the following substitute for the amendment to the amendment:

Amend the amendment by adding at the end thereof the following: "Provided that out of said sum there shall be defrayed the necessary expense of displaying the tuberculosis exhibit in different cities and towns in Texas."

Senator Terrell of Bowie made a point of order that the substitute was not germane as a substitute for his amendment to the amendment.

RECESS.

On motion of Senator Mayfield, the Senate recessed until 2:30 o'clock to-day.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

HOUSE BILL NO. 18.

Action recurred on House bill No. 18, the question being on a point of order, and Senator Cofer, who was presiding at the time the point of order was made, was called to the chair.

Senator Watson withdrew his substitute for the amendment to the amendment, which eliminated the point of order, and offered the following substitute for the amendment and the amendment to the amendment:

Amend page 40, between lines 23 and 24, by adding the following: "There is hereby appropriated for the use of the State Board of Health the sum of \$2500, to be used in the investigation, research and dissemination of information as to the extent, nature, prevention and cure of tuberculosis in the State of Texas; and for preparing a report of said investigation to be submitted to the Thirty-second Legislature, with recommendations as to the best method of management and control in the prevention of the disease in this State; provided, however, that no portion of said sum shall be used in the payment of any employees not specially provided for the Department of Public Health; and, provided further, that the necessary expense of exhibiting the 'Tuberculosis Exhibit' of the National association shall be paid out of this appropriation."

The substitute for the amendment and the amendment to the amendment was adopted, and the amendment, as substituted was adopted.

Senator Sturgeon here moved that the Senate rescind the vote by which the motion to consider the bill by departments was adopted.

Senator Sturgeon moved the previous question on the above motion, which motion being duly seconded, was so ordered, by the following vote:

Yeas—16.

Adams.	Real.
Alexander.	Senter.
Bryan.	Stokes.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Masterson.	Weinert.
Paulus.	Willacy.

Nays—10.

Cofer.	Murray.
Holsey.	Peeler.
Hudspeth.	Thomas.
Kellie.	Ward.
Mayfield.	Watson.

Absent.

Brachfield.	Perkins.
Hume.	Veale.
Meachum.	

The motion by Senator Sturgeon was adopted by the following vote:

Yeas—18.

Adams.	Real.
Alexander.	Senter.
Bryan.	Stokes.
Greer.	Sturgeon.
Harper.	Terrell of Bowie.
Hayter.	Terrell of McLennan.
Hume.	Ward.
Masterson.	Weinert.
Paulus.	Willacy.

Nays—9.

Cofer.	Murray.
Holsey.	Peeler.
Hudspeth.	Thomas.
Kellie.	Watson.
Mayfield.	

Absent.

Brachfield.	Perkins.
Meachum.	Veale.

Senator Sturgeon moved that all of the items be passed down to miscellaneous items, and when these items be considered that the whole bill be subject to amendment.

The motion was adopted.

MISCELLANEOUS ITEMS.

The Chair then laid before the Senate the miscellaneous items.

Senator Watson offered the following amendment:

Amend the bill by adding to miscellaneous items the following: "To repay H. P. Holderman for extra work and material furnished in the construction of associate dining hall and hospital for State Lunatic Asylum at Austin, Texas, said amount to be payable to Mrs. Elizabeth R. Holderman, surviving wife of H. B. Holderman. This appropriation is made in compliance with, and according to the findings of a Board of Arbitrators chosen by the State and Holderman, as is shown by the report and findings of said Board of Arbitrators. The arbitrators being W. S. Drake, James Belger and P. T. Shields. The findings of said arbitrators was dated Austin, Texas, March 18, 1903.....\$10,920.30

Pending discussion, Senator Holsey moved to table the amendment, which motion to table was lost by the following vote:

Yeas—13.

Bryan.	Holsey.
Greer.	Mayfield.
Harper.	Perkins.

Real. Thomas.
Sturgeon. Ward.
Terrell of Bowie. Willacy.
Terrell of McLennan.

Nays—14.

Adams. Masterson.
Alexander. Murray.
Cofer. Paulus.
Hayter. Peeler.
Hudspeth. Stokes.
Hume. Watson.
Kellie. Weinert.

Absent.

Meachum. Veale.

PAIRED.

Senator Senter (present), who would vote "nay," with Senator Brachfield (absent), who would vote "yea."

Senator Alexander offered the following substitute for the amendment:

Substitute for the amendment: "\$10,920.30, or so much thereof as may be necessary, is hereby appropriated for the payment of claim against the State held by the heirs of H. P. Holderman, provided said claim is established by decree of courts of competent jurisdiction and authority is hereby given to said heirs to institute suit against the State of Texas for the recovery of said claim."

Senator Watson made a point of order on the substitute, contending that same was not germane to the general appropriation bill, and that same did not come under the Governor's call, etc.

The Chair (Senator Cofer) sustained the point of order.

Pending discussion, Senator Weinert moved the previous question on the amendment, which motion being duly seconded, was so ordered.

The amendment was then lost by the following vote:

Yeas—12.

Adams. Murray.
Cofer. Paulus.
Hayter. Peeler.
Hudspeth. Stokes.
Hume. Watson.
Kellie. Weinert.

Nays—13.

Alexander. Real.
Bryan. Sturgeon.
Greer. Terrell of Bowie.
Harper. Thomas.
Holsey. Ward.
Mayfield. Willacy.
Perkins.

Absent.

Masterson. Terrell of McLennan.
Meachum. Veale.

PAIRED.

Senator Senter (present), who would vote "yea," with Senator Brachfield (absent), who would vote "nay."

Senator Senter offered the following amendment:

Amend the printed bill, page 96, by inserting as the first item under the miscellaneous items the following: "For the payment and cancellation of the following outstanding bonds of the State of Texas, a part of the public debt: \$645,200, \$188,500, \$41,400, \$22,100, \$20,700, \$15,600, \$135,400, all of which said bonds mature July 1, 1909; total \$1,068,900."

By Senter, Perkins, Kellie, Hayter, Adams, Murray, Hudspeth, Terrell of McLennan and Hume.

Senator Alexander made the point of order on the amendment, contending that same was in conflict with the Constitution, quoting Section 48, Article 3 of the Constitution in support of his point of order.

The Chair (Senator Cofer) overruled the point of order.

Senator Willacy offered the following substitute for the amendment:

Substitute for amendment: "For the payment and cancellation of outstanding bonds of the State of Texas, a part of the public debt, maturing July 1, 1909, \$500,000."

SECOND HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

House bill No. 47, A bill to be entitled "An Act to amend Chapter 144, Section 9 of an act passed by the Thirtieth Legislature, relating to the protection of the wild game within the State of Texas," with engrossed rider.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (Senator Cofer) had referred, after its caption had been read,

the following bill (see above House message for caption of):

House bill No. 47, referred to Judiciary Committee No. 2.

THIRD HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

Senate bill No. 43, A bill to be entitled "An Act creating an independent school district for free school purposes only in the county of Tarrant, to be known as the Mansfield Independent School District and to have all the rights, powers and duties of independent school districts formed by general laws, or by the incorporation of towns and villages for free school purposes only, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

FOURTH HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

House bill No. 76, A bill to be entitled "An Act to amend Section 126 of Chapter 11 of the General Laws of Texas, First Called Session of the Twenty-ninth Legislature of 1905, entitled 'An Act to regulate elections, general, special and primary, and political conventions, approved April 1, 1903,' and also to amend Section 141 of said Chapter 11 as passed at the First Called Session of the Twenty-ninth Legislature and as amended by the Thirtieth Legislature, approved April 30, 1907, relative to contests in primary elections," with engrossed rider.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (Senator Cofer) had referred; after its caption had been read, the following bill (see above House message for caption of):

House bill No. 76, referred to Committee on Privileges and Elections.

(Lieutenant Governor Davidson in the chair.)

HOUSE SUBSTITUTE FOR SENATE BILL NO. 4.

Senator Alexander moved that the pending order of business (House bill No. 18) be suspended, and the Senate take up, out of its order, House Substitute for Senate bill No. 4.

Senator Alexander moved the previous question on the above motion, which motion being duly seconded, was so ordered.

The motion to suspend the regular business and take up Senate substitute bill No. 4 was then adopted by the following vote:

Yeas--28.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Thomas.
Kellie.	Ward.
Masterson.	Weinert.
Mayfield.	Willacy.

Nays--1.

Watson.

Absent.

Meachum.

Veale.

On motion of Senator Alexander, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report), by the following vote:

Yeas--29.

Adams.	Hume.
Alexander.	Kellie.
Brachfield.	Masterson.
Bryan.	Mayfield.
Cofer.	Murray.
Greer.	Paulus.
Harper.	Peeler.
Hayter.	Perkins.
Holsey.	Real.
Hudspeth.	Senter.

Stokes.
Sturgeon.
Terrell of Bowie.
Terrell of McLennan.
Thomas.

Ward.
Watson.
Weinert.

Absent.

Meachum. Veale.

The Chair laid before the Senate, on second reading,

House substitute for Senate bill No. 4, A bill to be entitled "An Act to create a State Banking Board; to define its powers and duties; to provide for a depositors' guaranty fund under the supervision of said board, and fixing the conditions and terms by which banks and trust companies may avail their depositors of the benefit of said fund; fixing the amounts to be paid for the creation of said fund and the manner and time of payments; fixing the manner of management and administration of said fund; authorizing certain advertising privileges to such banks, and providing a penalty for the unauthorized use of such advertising privileges; providing for savings departments for State banks and fixing penalties for the violation of this act, and declaring an emergency."

There being a favorable majority committee report, with amendments and that the bill be not printed, and a favorable minority committee report,

Senator Alexander moved to adopt the majority committee report, and

Senator Mayfield moved, as a substitute, to adopt the minority committee report.

The substitute motion was lost by the following vote:

Yeas—12.

Brachfield.	Mayfield.
Bryan.	Perkins.
Cofer.	Stokes.
Greer.	Terrell of Bowie.
Harper.	Thomas.
Holsey.	Ward.

Nays—17.

Adams.	Peeler.
Alexander.	Real.
Hayter.	Senter.
Hudspeth.	Sturgeon.
Hume.	Terrell of McLennan.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	Willacy.
Paulus.	

Absent.

Meachum. Veale.

The majority committee report was then adopted by the following vote:

Yeas—29.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Murray.	

Absent.

Meachum. Veale.

Bill read second time, and passed to third reading.

On motion of Senator Alexander, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—29.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.
Murray.	

Absent.

Meachum. Veale.

The bill was read third time, and was passed by the following vote:

Yeas—27.

Adams.	Cofer.
Alexander.	Greer.
Brachfield.	Harper.
Bryan.	Hayter.

Holsey.	Senter.
Hudspeth.	Stokes.
Hume.	Sturgeon.
Kellie.	Terrell of Bowie.
Masterson.	Terrell of McLennan.
Mayfield.	Thomas.
Murray.	Ward.
Paulus.	Weinert.
Peeler.	Willacy.
Perkins.	

Nays—1.

Watson.

Present—Not Voting.

Real.

Absent.

Meachum. Veale.

Senator Terrell of McLennan moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

SENATE CONCURRENT RESOLUTION NO. 2.

By Senator Watson:

Resolved, by the Senate, the House concurring, That Mrs. H. P. Holdeman of Travis county, Texas, be and she is hereby authorized to bring suit against the State of Texas in any court of competent jurisdiction, for the purpose of establishing the validity and equity of a claim against the State of Texas, as the widow of H. P. Holdeman, for the sum of \$13,393.44, together with legal interest thereon from August 1, 1901, for extra work and material furnished the State of Texas in improvements made at the Lunatic Asylum and for the associate dining hall at said asylum which were not included in plans and specifications for same.

Resolved further, That in the trial of said cause, if the plaintiff shall establish her claim for said amount or for any part thereof, but that the claim is barred by limitation or laches, then the same shall be paid nevertheless.

Read first time, and referred to Committee on Public Claims and Debts.

RECESS.

On motion of Senator Stokes, the Senate recessed until 8:30 o'clock tonight.

AFTER RECESS—NIGHT SESSION.

The Senate was called to order by Lieutenant Governor Davidson.

HOUSE BILL NO. 18.

Action recurred on House bill No. 18, the question being on the substitute by Senator Willacy for the amendment by Senator Senter.

Senator Terrell of Bowie moved the previous question on both amendments. The motion was seconded, but the Senate refused to order same by the following vote:

Yeas—12.

Alexander.	Holsey.
Brachfield.	Sturgeon.
Bryan.	Terrell of Bowie.
Cofer.	Veale.
Greer.	Ward.
Harper.	Willacy.

Nays—12.

Adams.	Murray.
Hayter.	Peeler.
Hudspeth.	Real.
Hume.	Senter.
Kellie.	Watson.
Masterson.	Weinert.

Absent.

Mayfield.	Stokes.
Meachum.	Terrell of McLennan.
Paulus.	Thomas.
Perkins.	

The vote being a tie, Lieutenant Governor Davidson, presiding, voted "no" and declared the motion lost.

Action then recurred on the substitute for the amendment.

Senator Hudspeth moved the previous question on the amendment and the substitute for same, which motion being duly seconded, it was so ordered.

Action then recurred on the substitute for the amendment, and the same was lost by the following vote:

Yeas—13.

Alexander.	Sturgeon.
Brachfield.	Terrell of Bowie.
Cofer.	Thomas.
Greer.	Veale.
Holsey.	Ward.
Mayfield.	Willacy.
Stokes.	

Nays—17.

Adams.	Paulus.
Bryan.	Peeler.
Harper.	Perkins.
Hayter.	Real.
Hudspeth.	Senter.
Hume.	Terrell of McLennan.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	

Absent.

Meachum.

The amendment by Senator Senter, et al., was then adopted by the following vote:

Yeas—17.

Adams.	Paulus.
Bryan.	Peeler.
Harper.	Perkins.
Hayter.	Real.
Hudspeth.	Senter.
Hume.	Terrell of McLennan.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	

Nays—13.

Alexander.	Sturgeon.
Brachfield.	Terrell of Bowie.
Cofe.	Thomas.
Greer.	Veale.
Holsey.	Ward.
Mayfield.	Willacy.
Stokes.	

Absent.

Meachum.

Senator Senter moved to reconsider the vote by which the amendment was adopted, and lay that motion on the table.

The motion to table prevailed.

Senator Peeler offered the following amendment:

Amend the appropriation bill, under the head of Miscellaneous Items, by adding thereto the following:

"It is hereby expressly provided that the appropriation of \$4237.36, made by the Thirtieth Legislature to construct a retaining wall at the foot of Congress avenue, along the front of the State property known as the river walk in the city of Austin, \$2000; for brick paving of street upon which this property abuts, 9813-10 square yards, at \$2.28 per square yard, \$2237.36, making a total of \$4237.36, shall not lapse at the end of

the fiscal year of 1909, but the amount remaining unused which is now in the State Treasury, out of said appropriation, amounting to \$2237.36, be and the same is hereby appropriated anew and shall be and remain subject to be expended at any time during the fiscal years of 1910 and 1911, under the provisions as hereinabove stated."

The amendment was read and adopted by the following vote:

Yeas—24.

Adams.	Peeler.
Alexander.	Perkins.
Brachfield.	Real.
Cofe.	Senter.
Hayter.	Stokes.
Hudspeth.	Sturgeon.
Hume.	Terrell of McLennan.
Kellie.	Veale.
Masterson.	Ward.
Mayfield.	Watson.
Murray.	Weinert.
Paulus.	Willacy.

Nays—6.

Bryan.	Holsey.
Greer.	Terrell of Bowie.
Harper.	Thomas.

Absent.

Meachum.

There being no more amendments to the miscellaneous items, the same was passed, on motion of Senator Terrell of Bowie.

Senator Hudspeth offered the following amendment:

Amend the bill, page 23, lines 22 and 23, by striking out "\$25,000" for each year and insert in lieu thereof "\$30,000" for each year.

HUDSPETH,
BRYAN.

Senator Terrell of Bowie moved to table the amendment, which motion to table was adopted by the following vote:

Yeas—19.

Adams.	Perkins.
Alexander.	Real.
Cofe.	Sturgeon.
Greer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Hayter.	Thomas.
Holsey.	Veale.
Mayfield.	Ward.
Murray.	Willacy.
Paulus.	

Nays—9.

Bryan.	Peeler.
Hudspeth.	Stokes.
Hume.	Watson.
Kellie.	Weinert.
Masterson.	

Absent.

Brachfield.	Senter.
Meachum.	

Senator Murray offered the following amendment:

Amend the bill; page 54, line 7, by striking out "\$146,265" for each year and insert in lieu thereof the following: "\$92,920 for each year."

The amendment was read and adopted by the following vote:

Yeas—21.

Adams.	Peeler.
Greer.	Perkins.
Harper.	Real.
Hayter.	Stokes.
Holsey.	Sturgeon.
Hudspeth.	Terrell of McLennan.
Hume.	Thomas.
Kellie.	Veale.
Masterson.	Ward.
Murray.	Weinert.
Paulus.	

Nays—7.

Alexander.	Terrell of Bowie.
Bryan.	Watson.
Cofer.	Willacy.
Mayfield.	

Absent.

Brachfield.	Senter.
Meachum.	

Senator Cofer offered the following amendment:

Amend committee substitute Senate bill No. 3; page 46, line 18 by inserting after the word "source" the following: "Provided, the said clerk shall pay to the marshal who acts as assistant librarian in addition to the salary above provided the sum of not to exceed \$300 per annum, payable monthly, out of the fees of the clerk's office, and take credit for same in his quarterly report."

Senator Willacy moved to table the amendment, which motion to table was lost by the following vote:

Yeas—14.

Brachfield.	Greer.
Bryan.	Harper.

Hayter.	Stokes.
Holsey.	Sturgeon.
Mayfield.	Terrell of McLennan.
Perkins.	Thomas.
Real.	Willacy.

Nays—14.

Adams.	Murray.
Alexander.	Paulus.
Cofer.	Peeler.
Hudspeth.	Terrell of Bowie.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.

Absent.

Meachum.	Veale.
Senter.	

The amendment was then adopted by the following vote:

Yeas—16.

Adams.	Murray.
Alexander.	Paulus.
Bryan.	Peeler.
Cofer.	Terrell of Bowie.
Hudspeth.	Ward.
Hume.	Watson.
Kellie.	Weinert.
Masterson.	Willacy.

Nays—12.

Greer.	Real.
Harper.	Stokes.
Hayter.	Sturgeon.
Holsey.	Terrell of McLennan.
Mayfield.	Thomas.
Perkins.	Veale.

Absent.

Brachfield.	Senter.
Meachum.	

(Senator Hume in the chair.)

Senator Alexander offered the following amendment, which was read and adopted:

Amend the bill by adding after line 29, page 98, by inserting the following: "\$11,000, or so much thereof as may be necessary, is hereby appropriated for the payment of claim against the State held by the wife of H. P. Holderman, provided said claim is established by decree of court of competent jurisdiction and authority is hereby given to said heirs to institute suit against the State of Texas for the recovery of said claim."

ALEXANDER,
WATSON,
PEELER.

Senator Terrell of McLennan offered the following amendment:

Strike out all of lines 22 and 23, page 23.

Senator Stokes moved the previous question on the amendment and engrossment of the bill, which motion being duly seconded, was so ordered.

The amendment by Senator Terrell of McLennan was then lost by the following vote:

Yeas—5.

Masterson.	Terrell of McLennan.
Real.	Thomas.
Terrell of Bowie.	

Nays—23.

Adams.	Murray.
Alexander.	Paulus.
Bryan.	Peeler.
Cofer.	Perkins.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Veale.
Holsey.	Ward.
Hudspeth.	Watson.
Hume.	Weinert.
Kellie.	Willacy.
Mayfield.	

Absent.

Brachfield.	Senter.
Meachum.	

Bill read second time, and passed to a third reading.

On motion of Senator Willacy, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—28.

Adams.	Paulus.
Alexander.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Murray.	Willacy.

Absent.

Brachfield.	Senter.
Meachum.	

The bill was read third time, and passed by the following vote:

Yeas—25.

Adams.	Peeler.
Alexander.	Perkins.
Bryan.	Real.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Harper.	Terrell of McLennan.
Hayter.	Thomas.
Hudspeth.	Veale.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Murray.	Willacy.
Paulus.	

Nays—2.

Holsey.	Mayfield.
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Absent.

Brachfield.	Senter.
Meachum.	Stokes.

Senator Willacy moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

BILLS SIGNED.

The Chair (Lieutenant Governor Davidson) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

House bill No. 15, "An Act to amend Subdivision 6, Section 8, Article 2, Chapter 71 of the local and special laws of Texas, passed at the Regular Session of the Thirtieth Legislature, entitled 'An Act to grant a new charter to the city of Dallas; repealing all laws or parts of laws in conflict herewith,' and declaring an emergency."

Senate bill No. 13, "An Act requiring railroad companies to provide adequate and suitable passenger and freight depot buildings at their several stations and requiring them to keep all their passenger depots well lighted and warmed for the comfort and accommodation of the traveling public and giving the Railroad Commission power to require compliance with this act, and declaring an emergency."

House bill No. 78, "An Act to abolish the Alexander Independent School District in Erath county, Texas, and declaring an emergency."

House bill No. 71, "An Act to amend Section 2 of House bill No. 68, passed

at the Regular Session of the Thirty-first Legislature, entitled 'An Act to levy an occupation tax on all retail dealers in non-intoxicating malt liquors, and providing for the issuance of licenses, and fixing penalties for the violation of this act, and providing for injunction to prevent its violation, and declaring an emergency,' approved February 24, 1909, so that said Section 2 of said act shall read as follows."

Senate bill No. 43, "An Act creating an independent school district for free school purposes only in the county of Tarrant, to be known as the Mansfield Independent School District and to have all the rights, powers and duties of independent school districts formed by general laws, or by the incorporation of towns and villages for free school purposes only, and declaring an emergency."

House bill No. 81, "An Act to amend the city charter of the city of Greenville and the acts amendatory of said city charter of the city of Greenville, and to amend an act to amend charter, approved the 22nd day of March, 1909, by amending Section 1 of Article 3, Section 13a of Article 10 and Subdivision 18 of Section 15 of Article 10, and repealing an act amending said charter, approved April 1909, and declaring an emergency."

ADJOURNMENT.

On motion of Senator Kellie, the Senate, at 10:45 o'clock p. m., adjourned until tomorrow morning at 10 o'clock.

APPENDIX.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance, Statistics and History, to whom was referred

Senate bill No. 40, A bill to be entitled "An Act providing for the examination of banking corporations created by the acts of the Legislature of this State, or under any general law, prior to the adoption of the Constitution of this State in 1876, and requiring such banking corporation to make and publish reports of their conditions, and providing penalties for violation of this act, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do not pass.

HUDSPETH, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the minority of your Committee on Insurance, Statistics and History, to whom was referred

Senate bill No. 40, A bill to be entitled "An Act providing for the examination of banking corporations created by the acts of the Legislature of this State, or under general law prior to the adoption of the Constitution of this State in 1876, and requiring such banking corporation to make and publish reports of their condition and providing penalties for violation of this act, and declaring an emergency,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass.

MAYFIELD.

(Floor Report.)

Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on State Affairs, to whom was referred

House bill No. 52, A bill to be entitled "An Act to provide a method of apportioning, distributing and accounting of the available State school fund, and to repeal Sections 13, 14, 16, 17, 18, 23, 32 and 33 of Chapter 124 of the Acts of the Twenty-ninth Legislature, relating to the same subject, and repealing all laws and parts of laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass and that same be printed in the Journal.

Peeler, Chairman; Alexander, Thomas, Sturgeon, Stokes, Perkins, Bryan, Hume, Cofer.

That part of the committee report, providing that the bill be printed in the Journal, was adopted.

Following is the bill in full, as provided for in the above committee report:

House bill No. 52.

By Caves and
Vaughan.

A BILL

To Be Entitled

An Act to provide a method of apportioning, distributing and account of the available State school fund, and to repeal Sections 13, 14, 16, 17, 18, 23, 32 and 33 of Chapter 124, of the Acts of the Twenty-ninth Legislature, relating to the same subject, and repealing all laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Comptroller shall keep a separate account of the available State school fund arising from every source, and shall, on or before the meeting of the State Board of Education on or before the first day of August of each year, make an estimate of the amount of available school fund to be received from every source, and to be available for the succeeding scholastic year, and report the same to the State Board of Education.

Sec. 2. The Comptroller shall on the first working day of each month certify to the State Superintendent of Public Instruction the total amount of money collected from every source during the preceding month and on hand to the credit of the available school fund, and shall draw his warrant on the State Treasurer in favor of the treasurer of the available school fund of each county, city or town, and each school district having control of its public schools for the amount stated in, and upon receipt of, the certificate therefor issued to him on the first day of each month by the State Superintendent of Public Instruction, and shall register such warrants and transmit them to the State Treasurer.

Sec. 3. The State Treasurer shall receive and hold as a special deposit all money belonging to the available school fund and keep an account of the same. He shall register every warrant drawn by the Comptroller on such fund in favor of the Treasurer of the available school fund of any county, city or town or school district having control of its public schools and transmit such warrants to the Superintendent of Public Instruction. On presentation to him for payment, properly endorsed, he shall pay such warrants each in the order in which presented.

Sec. 4. The State Board of Education shall, on or before the first day of August in each year based on the estimate theretofore furnished said Board by the Comptroller, make an apportionment for the succeeding scholastic year, of the available State school fund among the several counties of the State, and the several cities and towns and school districts constituting separate school organizations, according to the scholastic population of each; and thereupon the State Superintendent of Public Instruction, as secretary of such board, shall certify to the treasurer of each county, city or town and of each school district constituting a separate school organization, the total amount of available school fund so apportioned to each such county, city or town or school district, which certificates shall be signed by the Governor, as president of such board, countersigned by the Comptroller, and attested by the State Superintendent of Public Instruction, as secretary of such board.

Sec. 5. On the first day of each month the State Superintendent of Public Instruction shall pro rate to the several counties, cities and towns and school districts constituting separate school organizations, according to the scholastic population of each, the available school money collected during the preceding month and then on hand as shown by the certificate issued that day to him by the Comptroller and shall thereupon certify to the Comptroller the total sum pro rated to each and such certificate shall be authority for the Comptroller to draw his warrant in favor of the treasurer of each such county, city or town or school district for the amount stated in such certificate. He shall receive from the State Treasurer all warrants drawn by the Comptroller in favor of the Treasurer of the available school fund of each county, city or town and each school district having control of its public schools and shall transmit such warrants to the respective treasurers in favor of whom they are drawn.

Sec. 6. That Sections 13, 14, 16, 17, 18, 23, 32 and 33 of Chapter 124 of the Acts of the Regular Session of the Twenty-ninth Legislature, relating to the apportionment, distribution and accounting of the available State school fund, be and the same are hereby repealed.

Sec. 7. That all laws and parts of laws in conflict with this act be, and the same are hereby repealed.

Sec. 8. The importance of the legislation proposed in this bill, and the crowd-

ed condition of the calendar, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days in each House, be suspended, and it is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

(Floor Report.)

Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on State Affairs, to whom was referred

House bill No. 51, A bill to be entitled "An Act to regulate the manner and form of making payments to the State for public lands; to define the duties of the Commissioner of the General Land Office, the State Treasurer and the Comptroller of Public Accounts in respect thereto; also to require all accounts with purchasers of such lands to be transferred to and kept in the General Land Office, to adopt a filing system for the General Land Office, and to make an appropriation for equipping said office for the purpose of putting into effect the provisions of this act, and to repeal Article 4046 of the Revised Civil Statutes of 1895, and all other laws and parts of laws in conflict with this act, and declaring an emergency."

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

Peeler, Chairman; Alexander, Sturgeon, Thomas, Stokes, Perkins, Bryan, Cofer, Hume.

Committee Room,

Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Insurance, Statistics and History, to whom was referred the House substitute for

Senate bill No. 4, A bill to be entitled "An Act to provide for the effective regulation and supervision of banking corporations, and providing for the better securing of depositors of such corporations; providing for and defining bond security banks, and providing for and defining guaranty fund banks; and providing that all banking corporations heretofore or hereafter formed shall avail their depositors of the protection provided for by this act, either as bond security banks or guaranty fund banks, and that all banks incorporated prior

to the adoption of the Constitution of 1876 and all National banks transacting business in this State, may, if they desire, at their option, voluntarily avail their depositors of the protection afforded by this act, either as bond security banks or guaranty fund banks; amending Sections 2, 10, 5, 39, 44, 53 and 55, and repealing Section 40 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas; prescribing additional regulations and safeguards for the protection of depositors and the safe conduct of banking corporations; prescribing powers and duties of the Commissioner of Insurance and Banking, and creating the State Banking Board, and prescribing its powers and duties, and providing for penalties for the violations of this act, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with the following amendments, and be not printed.

HUDSPETH, Chairman.

Amendment No. 2 to House substitute for Senate bill No. 4.

By Alexander and Terrell of McLennan:

An Act to provide for the regulation and supervision of banking corporations; providing for the securing of depositors of such corporations; providing for a depositors' guaranty fund, and fixing the terms by which banks and trust companies may avail their depositors of the benefits of said fund; providing for a bond for securing depositors, and providing that all banking corporations created under Chapter 10, Acts of the First Called Session of the Twenty-ninth Legislature, shall avail their depositors of protection provided for by this act, either by the depositors' guaranty fund or by bond at their option; providing that all National banks transacting business in this State may, at their option, voluntarily avail their depositors of the protection afforded by this act; providing that banks incorporated by special act of the Legislature of the State of Texas may, voluntarily, on certain conditions, protect their depositors under this act; providing that private banks may, voluntarily, avail their depositors of the protection by bond provided by this act; amending Sections 39 and 44, Chapter 10 of the Acts of the First Called

Session of the Twenty-ninth Legislature of the State of Texas; prescribing additional regulations and safeguards for the protection of depositors, and for savings departments; prescribing the powers and duties of the Commissioner of Insurance and Banking; creating a State Banking Board and prescribing its powers and duties; providing for penalties for the violation of this act, and declaring an emergency.

Amendment No. 1 to House substitute for Senate bill No. 4.

Be it enacted by the Legislature of the State of Texas:

Section 1. Each and every corporation which may hereafter be incorporated under the laws of this State with banking and discount privileges, and each banking and trust company in this State incorporated, or that may hereafter be incorporated under the provisions of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas, shall, at its option, protect its depositors in the manner hereinafter prescribed, either by availing itself of the depositors' guaranty fund hereinafter provided for, or by the depositors' bond security system hereinafter set forth.

Sec. 2. A State Banking Board is hereby created, which board shall be composed of the Attorney General, Commissioner of Insurance and Banking and Treasurer of this State. Said board shall have the control and management of the depositors' guaranty fund hereinafter provided for, and shall have the power to adopt all necessary rules and regulations in harmony with this act for the management of said fund, said board shall have general supervision and control of the depositors' bond security system herein provided for, and shall have the power of regulation, control and supervision of all State banking corporations and trust companies as hereinafter provided in this act.

Sec. 3. Each and every bank and trust company mentioned in Section 1 of this act shall have the right and privilege, at its option, to secure its depositors by the manner, methods and under the terms, provisions and regulations as set forth in this act for the depositors' guaranty fund or the bond security system; provided, that all such banks and trust companies shall secure their deposits by one of said plans on January 1, 1910; provided further, that such option shall be exercised on or before

December 1, 1909, and provided that such option shall be exercised by the holders of the majority of the stock, and the president or cashier of such bank shall notify the Commissioner of Insurance and Banking by registered mail of such action.

Sec. 4. Any such bank or trust company which shall elect to secure its deposits under the depositors' guaranty fund provided for by this act, shall pay to said banking board, providing its application is approved by said board as hereinafter prescribed in Section 7 of this act, on January 1, 1910, 1 per cent of its daily average non-interest-bearing deposits, for the preceding year, not including United States, State or other public funds, if otherwise secured, nor deposits of other banks and trust companies, for the purpose of creating a depositors' guaranty fund. Annually after the first payment to said fund, each bank and trust company subject to the provisions of this act shall pay to said board one-fourth of 1 per cent of its daily average deposits, as above defined, which amount shall be added to said guaranty fund; provided that when the amount available in said guaranty fund shall reach the sum of two million dollars the Bank Commissioner shall notify all banks and trust companies subject to this act, at least thirty days before the next annual payment, and thereafter the banks and trust companies participating shall not pay any further amount into said fund until said fund be depleted, and in the event of the depletion of said fund from any cause so that it falls below two million dollars, or in the event of necessity to meet an emergency at any time, said board shall have authority to require the payment for the current year of 2 per cent of such average deposits, or such part thereof as may be necessary to restore said fund to the maximum above named, or to meet the emergency, but no bank or trust company coming under the provisions of this act shall ever be required to pay more than 2 per cent of said average daily deposits for any one year; providing further, that first payments herein provided for shall be made to said board without reference to said maximum sum.

Sec. 5. The fund provided for herein shall be deposited with the State Treasurer and a separate account shall be kept thereof and it shall be paid out on warrants of the Comptroller based on vouchers issued as may be prescribed by the banking board, and said fund shall never be diverted from the purpose

herein specified. The Treasurer may, and he shall on order of said banking board, keep 25 per cent of the amount of said guaranty fund deposited in State depositories, subject to demand call of said board; provided, that 50 per cent of all payments required may be held by guaranteed bank as demand deposits, to the credit of said banking board.

Sec. 6. State bank and trust companies organized less than one year prior to the taking effect of this law on approval of their applications as provided for in Section 7 of this act shall pay into said guaranty fund 3 per cent of the amount of their capital stock, which amount shall constitute a credit fund, subject to adjustment on the basis of their deposits as provided for other banks now existing, at the end of one year; provided, however, that said payment shall not be required of banks and trust companies formed by the reorganization or consolidation of banks that have previously complied with the terms of this act.

Sec. 7. The State Banking Board shall admit to the benefits and protection of this act only such banks and trust companies as in their opinion are solvent and properly officered and conducted, and shall prescribe the form of application and statement which shall be made by each and every bank and trust company and which shall be sworn to by two of the chief officers of the bank, blank copies of which application and statement shall be mailed to each State bank and trust company in this State at least ten days before this act requires the initial payment, and which shall be filled out, signed and sworn to and returned promptly to said board, and such copies shall be mailed to any other bank within this State on request. Should said board decline the application of any bank or trust company, it shall state the grounds of such declination to such institution and whether the objection can be removed, and the condition thereof.

Sec. 8. Any National bank in this State may voluntarily avail its depositors of the protection of the depositors' guaranty fund, upon the same terms, payments, conditions and in the same manner as herein provided for State banks; provided, that in the event national banks should be required by Federal enactment to pay assessments to any bank guaranty fund of the Federal Government and thereby the deposits in national banks in this State should be guaranteed by virtue of Federal laws, that the national banks having availed themselves of the benefits of this act

may withdraw therefrom and have returned to them the unused portion of all assessments levied upon and paid by said banks.

Sec. 9. Whenever any State bank or trust company shall become insolvent and shall voluntarily, or by law, or in any manner as provided in Chapter 10, Acts of the First Called Session of the Twenty-ninth Legislature, come into the hands of the Commissioner of Insurance and Banking, he may proceed to wind up its affairs, either through a receiver or through some competent person, who shall give bond as may be required by the board, payable to the board for the faithful performance of all duties imposed upon him. Said bond may be recovered upon for the benefit of said guaranty fund. On taking possession of the property and business of any such State bank, the Commissioner shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals holding or in possession of any assets of any such State bank.

No bank, trust company, association or individual knowing of such taking possession by the Commissioner, or notified as aforesaid, shall have a lien or charge for any payment, advance of clearance thereafter made, or liability thereafter incurred against any of the assets of the State bank of whose property and business the Commissioner shall have taken possession as aforesaid. Such State bank may, with the consent of the State Banking Board, resume business upon such condition as may be approved by it, which permission shall be evidenced by a written statement to that effect from the Commissioner. Upon taking possession of the property and business of such State bank, the Commissioner is authorized to collect moneys due to such corporation, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as herein provided. The Commissioner shall collect all debts due and claims belonging to such State bank, and upon the order of the district court, if in session, or the judge thereof, if in vacation, of the county in which it was located and transacting business, may sell or compound all bad or doubtful debts, and on like order may sell the real or personal property of such State bank on such terms as the court shall direct, and may, if necessary to pay the debts of such State bank, enforce the individual liability of the stockholders. The Commissioner may, under his hand and official

seal, appoint one or more special agents to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the Commissioner and a certified copy in the office of the clerk of the county court in which such State bank was located and transacted business. The Commissioner may from time to time, authorize a special agent to perform such duties connected with such liquidation and distribution as the said Commissioner may deem proper. The Commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such State bank and may retain such of the officers or employees of such State bank as he may deem necessary. The Commissioner shall require from a special agent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The Commissioner shall cause notice to be given by advertisement in such newspapers as he may direct, weekly, for three consecutive months, calling on all persons who may have claims against such State bank to present the same to the Commissioner and make legal proof thereof at a place and within a time not earlier than the last day of publication to be therein specified, which notice shall contain a statement, in larger type than that in which the body of such notice is printed, specifically stating that all such claims of guaranty and depositors must be presented and legal proof thereof made at the place designated within forty-five days after the date which the property and business of such State bank was taken possession of by the Commissioner, and that all claims of guaranteed depositors presented after expiration of forty-five days shall not be entitled to payment of any portion thereof out of the depositors' guaranty fund. The Commissioner shall mail a similar notice to all persons whose names appear as creditors upon the books of the State bank. If the Commissioner doubts the justice and validity of any claim he may reject same and serve notice of such rejection upon the claimants, either by mail or by written notice personally served. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the Commissioner. The action upon the claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to the creditors shall be entitled to share in the distribution

only to the extent of the assets in the hands of the Commissioner equitably applicable thereto. Upon taking possession of the property and assets of such State bank, the Commissioner shall make an inventory of the assets of such State bank in duplicate, one to be filed in the office of the Commissioner and one in the office of the clerk of the county court in which such State bank was located and transacting business; upon the expiration of the time fixed for the presentation of claims presented, including and specifying such claims as have been rejected by him, and showing fully all claims and amounts paid to guaranteed depositors out of the depositors' guaranty fund, and the amount to which said fund is entitled by reason of its subrogation to the rights of such guaranteed depositors so paid, and all amounts held by him on account of claims of guaranteed depositors, which have been rejected or are in dispute, one to be filed in the office of the clerk of the county court of the county in which such State bank was located and transacted business. Such inventory and list of claims shall be open at all reasonable times to inspection. All compensation of special agents, counsel and other employees and assistants, and all expenses of supervision and liquidation shall be fixed by the Commissioner, subject to the approval of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacting business, on notice to such State bank; provided, that the compensation of such special agents shall always be the same as is provided by law for State bank examiners, and shall, upon the certificate of the Commissioner, be paid out of the fund of such State banks in the hands of the Commissioner. The moneys collected by the Commissioner shall be from time to time deposited in one or more State banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims, the Commissioner may, out of the funds remaining in his hands after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of a notice to creditors, he may declare a final dividend, such dividend to be paid to such person and in such manner and upon such notice as may be directed by the district court, if in session, or the judge thereof, if in vacation, of the district in which such

State bank was located and transacted business. In the declaration and payment of all such dividends the depositors' guaranty fund shall be entitled to receive as its dividend such portions of the amounts due and payable to guaranteed depositors as shall have been paid to them out of the depositors' guaranty fund, together with 6 per cent interest thereon from the date or dates upon which checks were drawn upon all State banks, as hereinafter provided, to provide for the payment of the guaranteed deposits of such State banks, and the Commissioner shall forthwith distribute such dividends to State banks upon which checks were drawn for such payment of guaranteed deposits in proportion to the amounts of such checks, respectively. Objections to any claim not rejected by the Commissioner may be made by any party interested by filing a copy of such objections with the Commissioner, who shall present the same to the district court, if in session, or the judge thereof, if in vacation, at the time of the next application to declare a dividend. The court may make proper provision for unproved or unclaimed deposits. Whenever any such State bank, of whose property and business the Commissioner has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time, apply to the district court, if in session, or to the judge thereof, if in vacation, of the district in which such bank is located and transacting business to enjoin further proceedings, and said court, if in session or the judge thereof, if in vacation, after citing the Commissioner to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts, may, upon the merits dismiss such application or enjoin the Commissioner from further proceedings and direct him to surrender such business and property to such State bank. Whenever the Commissioner shall have paid to each and every depositor and creditor of such State bank (not including stockholders), except for the amount of their deposits over and above their liability under the law as stockholders, whose claim or claims as such creditor or depositor shall have been duly proven and allowed, the full amount of such claims, and shall have repaid to the depositors' guaranty fund all amounts paid out of it to guaranteed depositors of such State bank, together with 6 per cent interest thereon from the date when the checks to provide for such payment were drawn and shall have made proper provision

for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the Commissioner shall call a meeting of the stockholders of such State bank by giving notice thereof for thirty days in one or more newspapers in the county where such State bank was located and transacted business. At such meeting the stockholders shall determine whether the Commissioner shall be continued as liquidator, and shall wind up the affairs of such State bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and a majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the Commissioner, he shall complete the liquidation of such corporation, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary for a choice. Such agent or agents shall execute and file with the Commissioner a bond, in such amount, with such sureties and in such form as shall be approved by the Commissioner, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the Commissioner shall transfer and deliver to such agent or agents all the undivided and unclaimed or other assets of such State bank then remaining in his hands; and upon such transfer and delivery the said Commissioner shall be discharged from any and all further liability to such State bank and its creditors and stockholders. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said State bank, as herein provided in the case of distribution by the Commissioner, except that the expenses thereof shall be subject to the direction and control of the district court, if in session, or the judge thereof, if in vacation, of the district in which such State bank was located and transacted business. In case of the death, removal or refusal to act of such agent or agents, the stockholders on the same notice, to be given by the

Commissioner, upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may select a successor and shall have the same power and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the Commissioner for six months after the order for final distribution shall be by him deposited in some State bank to be designated by the State Banking Board to the credit of the Commissioner in his name of office, in trust for the several depositors with and creditors of the liquidated State bank from which they were received, who are entitled thereto. The Commissioner shall show in his official report the names of the State banks so taken possession of and liquidated, and the amounts of unclaimed and unpaid deposits or dividends, with respect to each of them, respectively. The Commissioner shall pay over the moneys so held by him to the persons respectively entitled thereto upon the order of the State Banking Board, who shall direct such payment to such persons upon being furnished satisfactory evidence of their right to the same. In case of doubt or conflicting claims, the State Banking Board may require an order of the district court, if in session, or the judge thereof, if in vacation, authorizing and directing the payment thereof. The State Banking Board may apply the interest earned by the moneys held by the Commissioner, or may authorize him to apply the same toward defraying the expenses incurred in payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and the Commissioner shall include in his official report a statement of the amount of interest earned by such unclaimed dividends. Any State bank may, at any time, place its affairs and assets under the control of the Commissioner by posting a notice on its front door, as follows:

"This institution is in the hands of the Commissioner of Insurance and Banking of the State of Texas." The posting of this notice or of the same notice by the Commissioner or any State Bank Examiner at any time when he shall have taken possession of the property and business of a State bank, shall be sufficient to place all its assets and property of whatever nature in the possession of the Commissioner and shall operate as a bar to any attachment proceedings whatever.

Sec. 10. In the event the Commissioner of Insurance and Banking shall take possession of any bank or trust company, subject to this act, as herein provided, the depositors of said bank or trust company, as specified in Section 4 of this act, shall be paid in full out of the cash in said bank or trust company and that can be made immediately available from such bank, and the remainder shall be paid out of the depositors' guaranty fund through the said board in the event the cash available in said institution shall be insufficient; provided, that deposits upon which interest is being paid by said bank, its officers or stockholders, to the depositor and deposits otherwise secured shall not be insured under this act, but shall only receive the pro rata amount which may be realized from the assets, resources and collections of and from such banks and trust companies, its stockholders or directors.

Sec. 11. The State shall have, for the benefit of the depositors' guaranty fund, a first lien upon all assets of such bank or trust company, and all liabilities owing or accruing to such bank or trust company; provided, however, that any deposits on which said bank was paying interest and any other deposits not insured under this act and which are entitled to share in the assets, shall share in the dividends and proceeds of such assets and collections pro rata or as may be provided by law.

Sec. 12. In the event the depositors' guaranty fund, or any part thereof, shall be used by said banking board to pay off the depositors of a National bank which has accepted the provisions of this law, then said banking board shall receive from the receiver or other officer in charge of said bank the pro rata share of the proceeds of the assets and collections which would be due to said depositors to the amount so paid by the banking board.

Sec. 13. Provided that any bank operating under either form of guaranty herein provided for shall advertise the fact as to such guaranty it is operating under in the following language: "This bank has contributed its proportion of the guaranty fund as required by law to secure its depositors and is operating under said clause of the law," or "this bank has given bond to secure its depositors, approved by the county judge of county and Attorney General of Texas and now on file as required by law," as the case may be.

Sec. 14. Any State bank or banking and trust company, incorporated under

the laws of this State, desiring to maintain a savings department or to use or continue to use the word "savings" as part of its corporate name, or in or as part of any sign or advertisement, or in or upon any stationery used or to be used by it, shall establish and maintain a savings department in compliance with the provisions of this section. Such savings department may be established by the board of directors adopting a resolution providing therefor, at a regular meeting, which shall contain a copy of this section, and a certified copy of which shall be filed in the office of the Commissioner of Insurance and Banking, and also recorded in the office of the county clerk of the county in which such bank or banking and trust company is located; such copies to be filed by the bank or banking and trust companies maintaining such savings departments and using the word "savings" as above provided at the time this act shall take effect, and which desire to continue to do so, within ninety days from the time this act shall take effect (and which desire to continue to do so, within ninety days from the time this act shall take effect), and to be filed by banks desiring to establish such savings departments after this act shall take effect prior to the establishment of such department. All banks or banking and trust companies establishing or maintaining a savings department or using the word "savings" as above provided after this act shall take effect, or which having such departments or using the word "savings" at the time this act shall take effect, shall continue to maintain such departments or to so use the word "savings" more than ninety days thereafter shall keep the business of such department entirely separate and distinct from the general business of such bank or banking and trust company, and shall keep all moneys received as such savings deposits and the funds and securities in which the same may be invested, at all times segregated from and unmingled with the other moneys and funds of the bank or banking and trust company, and may invest not more than 85 per cent of the total amount of such savings deposits in any of the following classes of securities, and not otherwise, to wit:

1. In bonds or interest-bearing notes or obligations of the United States or of those for which the faith of the United States is pledged for the payment of principal and interest.

2. In bonds of any city, county, town or school district or other subdivision of

this State, now organized or which may hereafter be organized, and which is now or may hereafter be authorized to issue bonds under the Constitution and laws of this State, which has not defaulted in the payment of any part of either principal or interest thereof, within five years previous to making such investments.

3. In bonds of the State of Texas or of any State of the Union that has not within the last five years previous to making such investment defaulted in the payment of any part of either principal or interest thereof.

4. In the first mortgage bonds of any steam or electric railroad, the income of which is sufficient to pay all operating expenses and fixed charges, which has its domicile in the State.

5. In bonds or notes secured by first mortgage, deed of trust or other valid lien on unincumbered improved real estate to run for a term of not longer than ten years, situated in the State, worth at least twice the amount loaned thereon, such bonds or notes to be always accompanied by a complete abstract of title to the property mortgaged and an attorney's certificate or title insurance policy in some company incorporated under the laws of this State, certifying said bonds or notes to be the first lien on the land mortgaged.

It shall be the duty of the directors of such bank or banking and trust company, as soon as practicable, to invest the moneys and funds of such savings department, by purchase or otherwise, in the securities above described, and from time to time to sell and reinvest the proceeds of such investments, but for the purpose of meeting current demands in excess of the receipt, any of the securities may be sold, or taken up and replaced in cash by the bank or banking and trust company out of its general fund, and there shall be kept on hand at all times not less than 15 per cent of the whole amount of such deposits in actual cash, in such savings department.

It shall be lawful to require sixty days' written notice of the withdrawal of any savings deposits as provided for in this section, at the option of the bank or banking and trust company, in case of the insolvency or liquidation of any State bank or banking and trust company which shall establish or maintain a savings department under the terms of this section, its savings depositors shall be first paid, and the remainder, after they have been paid in full, shall be applied to the payment of

claims of general creditors. It shall be the duty of the president of each State bank or banking and trust company maintaining a savings department under the provisions of this section, to file with the Commissioner of Insurance and Banking not less than ten days after the first calendar month a statement of the assets and liabilities of such savings department, upon a form to be prescribed by the Commissioner of Insurance and Banking, and it shall be unlawful for any officer of any State bank or banking and trust company to receive or assent to the receiving of any savings deposits, when the last preceding monthly statement, as herein provided for is not conspicuously posted in the office from wherein its business is transacted.

The directors of any State bank or banking and trust company establishing or maintaining or continuing to maintain a savings department may provide that such rate of interest shall be paid on the savings deposits as it may see fit, payable at such periods and upon such terms and conditions as may be reasonable; provided, that in any case the earnings of such savings department are sufficient to pay any interest due upon any savings deposits such interest or the deficiency therein shall be paid by the bank or banking and trust company out of its general funds. At the end of any period for which such bank or banking and trust company may lawfully declare a dividend upon its stock, it shall be proper to transfer to the general fund of such bank or banking and trust company all accumulated earnings of the said savings department after the payment or credit of all interest due on the accrued savings deposits, and the legitimate expense of such department have been provided for. All such savings departments shall be governed by the terms and provisions of this act so far as the same are applicable and are not in conflict with the special provisions of this section and shall also be governed by such provisions of laws of the State applicable to savings banks as are not in conflict with any of the provisions of this act or of this section, and such reasonable rules and regulations for the control of such savings departments may be adopted and put in force by the board of directors at any regular meeting of the stockholders at any annual meeting; provided, that such rules and regulations shall not become effective until they have been submitted to the Commissioner of Insurance and Banking and by him approved.

It shall be unlawful for any director

or officer of any bank or banking and trust company which shall establish or maintain or continue to maintain a savings department or which shall use the word "savings" as provided in this section to knowingly misappropriate any moneys or funds belonging to such savings department or to use or consent to the use of any such moneys or funds otherwise than for the payment of lawful demands of savings depositors, and in the making of such investments as are prescribed in this section, and in the payment of such dividends to the shareholders as are allowed by the law to be paid therefrom, or to borrow any of the funds belonging to such savings department, or to in any way be an obligor for moneys loaned by or borrowed of such savings department, or to receive or accept, directly or indirectly, any commission, brokerage or other valuable thing or favor of any kind by reason or on account of any loan or investment made out of the funds of such savings department, or to sell to such savings department any security or other investment, or wilfully and knowingly do or perform any act or transaction by or as a result of which at any time the assets of such savings department, including cash, shall not at least equal in amount the deposits in such savings department, at least 15 per cent of which shall be actual cash in such savings department.

Any officer or director of any State bank or banking and trust company who shall knowingly violate the provisions of this section, shall be deemed guilty of a felony and shall, upon conviction, be punished by imprisonment in the State penitentiary for a term of not less than one nor more than five years.

In computing the aggregate amount of average annual deposits of any bank or banking and trust company for the purpose of ascertaining whether or not it shall be required to increase its capital stock as provided in this act, or for the purpose of determining the amount required to be paid into the depositors' guaranty fund as provided in this act, the deposits of its savings department as provided in this section shall not be included.

Sec. 15. In the event of the voluntary liquidation of any bank or trust company operating under the provisions of the depositors' guaranty fund, when it shall be made to appear to the State Banking Board that all depositors have been paid in full, said board shall return to such bank or trust company

the pro rata part paid by it into such fund then unused.

Sec. 16. Each and every State bank or trust company now or hereafter incorporated under the laws of this State, which shall elect to come under the provisions of the bond security system of this act, shall on January 1, 1910, and annually thereafter file with the Commissioner of Insurance and Banking and his successors in office for and on behalf of the lawful depositors of such bank a bond, policy of insurance, or other guaranty of indemnity in an amount equal to the amount of its capital stock, which said bond, policy of insurance, or other guaranty of indemnity shall be for and inure to the benefit of all depositors. Such instrument and the security thereby provided shall be approved by the county judge of the county in which such business is domiciled, and shall take effect and be in force from and after the time it is approved and filed in the office of the Commissioner of Insurance and Banking. Every such corporation shall comply with the provisions of this act as herein provided, and every such corporation that may hereafter be incorporated shall comply with the provisions of this section before it shall be permitted to receive deposits. Every such bond or policy of insurance or other guaranty of indemnity filed as provided for in this act, shall secure depositors at the time said bond is filed and approved and all deposits made during the period of twelve months thereafter.

Sec. 17. Any person, firm or corporation other than as described in Section 16 hereof transacting lawfully a banking business in this State, or lawfully receiving funds on deposit, shall be authorized to take advantage of the provision of this act and to file with the Commissioner of Insurance and Banking a bond or policy or other guaranty of indemnity. Any such corporation shall, in such event, file a bond or policy of insurance or other guaranty of indemnity in like amount as it would be required to file if incorporated under the laws of Texas.

Any such person or firm transacting the business of a private bank shall in such event file a bond or policy of insurance or other guaranty of indemnity in an amount to be fixed by the Commissioner of Insurance, which amount shall in no case be less than one-half the amount of the average of the daily deposits with such persons or firm for the preceding period of twelve months; provided, that no person or firm shall

be permitted to take the benefit of this act unless such person or firm shall have been engaged in such business in the State of Texas for the period of at least twelve months; provided, that any such person, firm or corporation shall submit to the Commissioner of Insurance and Banking such reports and statements concerning its deposits, and concerning the solvency of such bond or policy of insurance or other guaranty of indemnity as he may require in order to enable him to determine the sufficiency of such bond, or policy of insurance or other guaranty of indemnity, and shall pay all such reasonable expenses as may be incurred by him in the making of an examination thereof; provided further, that such bond, policy of insurance or other guaranty shall be approved by the county judge and the Commissioner of Insurance and Banking and filed with the Commissioner of Insurance and Banking as provided for in Section 1 hereof.

Sec. 18. In the event of default by any person, firm or corporation transacting such business or receiving deposits which shall make, execute or file the bond or policy of insurance or other guaranty of indemnity, provided for herein, in the payment of a deposit lawfully demanded, it shall be the duty of the Commissioner of Insurance and Banking, when such default shall be made known to him, to at once make an examination of such bank, and if in his judgment the bank is insolvent, he shall take charge of such bank as provided by law for the liquidation of State banks. Upon taking charge of a bank as above provided, the Commissioner of Insurance and Banking shall at once give notice thereof to each and all persons who may be obligated by reason of such default and of the conditions of such bond or policy of insurance or other guaranty of indemnity, and upon such notice the full amount of the same shall thereby become due and payable within sixty days. In case the bond hereinabove provided for shall be executed by personal obligation or security, then in no event shall such bond be deemed adequate and sufficient unless and until it shall have been executed by at least three different persons or individuals of financial responsibility and solvency satisfactory to the authorities herein authorized by this act to approve such bond.

When any bond or policy of insurance or other guaranty of indemnity provided for herein shall become due and payable in accordance with the provisions of this act, it shall be the duty

of the makers and signers thereof to pay over the full amount of the same to the Commissioner of Insurance and Banking, or such part thereof as he may demand, to be held by him in trust for the depositors with the person, firm or corporation furnishing such bond or policy of insurance or other guaranty of indemnity. All proceeds thus arising either from voluntary payment or otherwise, shall be payable to the Commissioner of Insurance and Banking, and shall be by him promptly paid over pro rata to unpaid depositors upon presentation to him of satisfactory proofs of their claims, which proofs shall be received and filed and before payment thereof shall be approved by him.

In the event any maker or signer as sureties of such bond, or policy of indemnity shall be a corporation incorporated under the laws of Texas, and it shall refuse or fail to pay over within sixty days, as herein provided, the full amount due by it upon such bond, or policy of insurance, or other guaranty of indemnity, its charter shall thereby become subject to forfeiture, and it shall be the duty of the Attorney General upon receiving notice thereof from the the Commissioner of Insurance and Banking to bring suit in the district court of Travis county, Texas, within thirty days to forfeit such charter, and upon hearing thereof decree and judgment may be rendered, annulling and forfeiting the charter of such corporation.

In the event any maker or signer as surety of such bond, or policy of insurance, or other guaranty of indemnity shall be a corporation incorporated elsewhere than in the State of Texas, and transacting business in this State under a permit from the State, and it shall refuse or fail to pay over within sixty days after demand shall have been made therefor by the Commissioner of Insurance and Banking, as herein provided, the full amount of its liabilities upon such bond, or policy of insurance, or other guaranty of indemnity, it shall thereupon be the duty of the Commissioner of Insurance and Banking to notify the Secretary of State of said facts, and it shall be the duty of the Secretary of State and the Commissioner of Insurance and Banking thereafter to refuse any permit to said corporation to transact business in the State until it shall show to the satisfaction of such officers that it has fully discharged its liabilities upon such bond, or policy of insurance, or other guaranty of indemnity upon which default was thus made.

In the event such person, firm or corporation shall default in the payment of a lawful demand and shall so continue for the period of ninety days from the beginning thereof, and the obligation of such bond, or policy of insurance, or other guaranty of indemnity is not discharged it shall be the duty of the Attorney General or any district or county attorney, acting at his instance, to bring suit upon such bond, or policy of insurance, or other guaranty of indemnity in the name of the Governor and for the benefit of all persons who may be beneficiaries thereof by reason of its terms and conditions.

Such suit shall be instituted in the district court of the county where the person, firm or corporation furnishing such bond, policy of insurance or other guaranty of indemnity transacted such business at the time of the filing thereof, or in any county immediately adjacent thereto at the option of the Attorney General. Any action upon such bond, or policy of insurance, or other guaranty of indemnity shall be brought within twelve months of the date therein fixed for the termination thereof.

Sec. 19. Whenever any maker or signer of any bond, or policy of insurance, or other guaranty of indemnity other than the principal therein, shall be required under the provisions of this act to pay over for the benefit of the depositors with any person or corporation, any sum or sums of money, such maker or signer making or participating in such payment, shall thereby become subrogated to the rights of a depositor to the extent of the payment or payments so made, and entitled to assert such right in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by such bond, or policy of insurance, or other guaranty of indemnity.

Sec. 20. The Commissioner of Insurance and Banking, when in his judgment it is necessary to make an examination of a bank in order to determine whether or not it is authorized to make bond under this act, or to determine the amount of such bond, he shall charge a fee of not to exceed \$20 against each corporation incorporated under the laws of the State to do a banking business or to receive funds on deposit for the examination of the bond, or policy of insurance, or other guaranty of indemnity provided for in Section 16, and the examination of the solvency thereof and for the filing of the same shall be authorized to charge an examination fee

sufficient to cover the actual expenses thereof against any other person, firm or corporation permitted to file such bond, or policy of insurance, or other guaranty of indemnity under the provisions of this act.

Sec. 21. The bond, policy of insurance or other guaranty of indemnity herein provided for shall contain substantially the following provisions:

State of Texas,

County of.....

Know all men by these presents:

That we, as principal, and and as sureties, are held and firmly bound unto the Governor of the State of Texas and his successors in office in trust for the benefit of depositors, in the sum of..... dollars, payable as provided by the law of Texas, at the time of the execution hereof, conditioned that the above bound..... will pay upon demand, or in accordance with the certificate of deposit to the persons entitled thereto all deposits in said bank at the date of said bond and all other deposits made therein during the period of one year from the date thereof. Upon payment of any sum or sums made obligatory by reason of the terms hereof, and surety herein making or participating in such payment shall thereby be subrogated to the rights of a depositor and entitled to assert such rights in accordance with the laws of the State, secondary and subject to the rights of all depositors secured by the terms hereof.

Sec. 22. The security for the benefit of depositors provided for by this act may be divided into two or more bonds, policies of insurance or other guaranties of indemnity or any part thereof may be given in either of such forms of guaranty of indemnity; provided, that the aggregate thereof shall be equal to the total amount of the security required in accordance with the provisions of this act.

Sec. 23. Whenever the deposits of any corporation incorporated under the laws of Texas which shall have filed a bond, or policy of insurance, or other guaranty of indemnity with the Commissioner of Insurance and Banking in accordance with the provisions of this act shall exceed six times the amount of its capital and surplus, it shall be its duty to furnish in addition to the security theretofore so given, additional security for the protection of its depositors, which additional security shall

consist of one or more bonds, or policies of insurance, or other guaranties of indemnity, as herein provided, in a sum or sums, which shall, in the aggregate, be equal to the total amount of such excess of deposits above six times the amount of the capital and surplus of such corporation. In the event any such corporation shall refuse or fail to comply with the provisions of this section, after demand by the Commissioner of Insurance and Banking, it shall be his duty to report the facts to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter a decree and judgment therein, forfeiting and annulling the charter of such corporation.

Sec. 24. If any corporation organized under the laws of this State to do a banking business or to receive funds on deposit shall fail or refuse to file the bond, or policy of insurance, or other guaranty of indemnity provided for in Section 16 hereof, in accordance therewith, it shall be the duty of the Commissioner of Insurance and Banking to promptly report such failure to the Attorney General, who shall thereupon institute suit in the district court of Travis county to forfeit the charter of such corporation, and such court shall, upon hearing and proof thereof, enter decree and judgment therein forfeiting and annulling the charter of such corporation.

Sec. 25. If at any time it shall appear to the State Banking Board that any bond, or policy of insurance or other guaranty of indemnity filed as provided for herein by any corporation organized under the laws of Texas is insufficient, they shall have the authority, and it shall be their duty, to require such corporation to file new or additional security in an amount sufficient to protect its depositors in accordance with the provisions of this act. In the event such corporation shall refuse or fail to comply with such requirements, they shall communicate the facts to the Attorney General, who shall thereupon institute such proceedings and take such steps as the nature of the case may require. The Commissioner of Insurance and Banking and the Attorney General shall, in such event, have and exercise, for the protection of depositors, all the authority conferred upon them by Section 40 of Chapter 10 of the General Laws enacted at the First Called Session of the Twenty-ninth Legislature.

Sec. 26. All State banks transacting business in this State shall be required on or after the first day of January, 1910, to hold a certificate of authority to transact a banking business issued by the Commissioner, in compliance with the provisions of this act, and to keep the same conspicuously posted at all times in the banking house where such business is transacted. Any person or persons who shall in any capacity transact or hold themselves out as transacting the business of banking for or on behalf of any State bank or State banking and trust company after the first day of January, 1910, without such bank or banking and trust company shall hold a certificate of authority as herein provided for, except in cases where such certificates shall not yet have been issued to newly incorporated banks as herein provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense, each day being considered as a separate offense, by a fine of not less than \$100 and not exceeding \$1000, or by imprisonment in the county jail for not less than one nor more than twelve months, or by both such fine and imprisonment.

Sec. 27. Section 39 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as to hereafter read as follows:

"Sec. 39. It shall be the duty of the Commissioner of Insurance and Banking, at least once in each quarter of each calendar year to cause each banking corporation, subject by law to examination to be thoroughly and fully examined, and any such corporations may be examined whenever such Commissioner may deem it necessary or expedient. Such Commissioner and all State bank examiners shall have the power to administer oaths to any person whose testimony may be desired for the purpose of any such examinations. The expense of every general and special examination shall be paid by the corporation examined in such amount as the Commissioner of Insurance and Banking shall certify to be just and reasonable. Provided such expenses shall be paid in proportion to the amount of capital stock of the various corporations as follows: Those with a capital stock of \$10,000 shall not pay more than \$12.50; those with a capital stock of more than \$10,000 and not exceeding \$25,000 shall not pay more than \$15.00; those with a capital stock of more than \$25,000 and not exceeding \$50,000 shall not pay more than

\$20.00; those with a capital stock of more than \$50,000 and not exceeding \$100,000 shall not pay more than \$30.00; those with a capital stock of more than \$100,000 and not exceeding \$250,000 shall not pay more than \$37.50; those with a capital stock of more than \$250,000 and not exceeding \$500,000 shall not pay more than \$75.00; those with a capital stock of more than \$500,000 and not exceeding \$1,000,000 shall not pay more than \$125.00; those with a capital stock of more than \$1,000,000 and not exceeding \$2,000,000 shall not pay more than \$150.00; those with a capital stock of more than \$2,000,000 and not exceeding \$4,000,000 shall not pay more than \$200.00; and those with a capital stock exceeding \$4,000,000 shall not pay more than \$300.00.

The permanent surplus of any such corporation shall be reckoned in ascertaining the fees for examination as a part of its capital stock. All sums collected as examination fees shall be paid by the Commissioner of Insurance and Banking directly into the State Treasury to the credit of the general revenue fund. Payments for salaries and expenses of examinations and for expenses of the Commissioner of Insurance and Banking in enforcing this act, shall be made upon the certificate of the Commissioner of Insurance and Banking by warrant of the Comptroller upon the State Treasurer.

Sec. 28. If from the sworn statement of the average daily deposits of any bank for the year ending on the first day of December, 1909, or of any subsequent year, filed with the Commissioner as provided in this act, it shall appear that such average daily deposits for such year amounted to more than five times the capital stock and surplus of such bank on November 1 of such year, if the capital stock of such bank is not more than \$10,000 or more than six times such capital stock and surplus if the capital stock is more than \$10,000 and less than \$20,000; or seven times such capital and surplus if the capital stock is \$20,000 or more, and less than \$40,000; or eight times such capital stock and surplus if the capital stock is \$40,000 or more, and less than \$75,000; or nine times such capital stock and surplus if the capital stock is \$75,000 or more, and less than \$100,000; or ten times such capital stock and surplus if such capital stock is \$100,000 or more; then in any such case it shall be the duty of the State Banking Board to require that each State bank shall within sixty days thereafter increase its capital by 25 per cent thereof, and it shall be the duty

of the Commissioner to immediately furnish such State bank with a certified copy of the order making such requirement, and upon the receipt of such requisition the directors of such State bank shall, within the time required, cause such increase to be made in its capital stock, and if the same is not done within such time, it shall be unlawful for such bank to thereafter receive any deposits at any time when its total demand and time deposits shall in the aggregate amount to more than the limitation herein placed upon deposits.

Sec. 29. After this act shall take effect it shall be unlawful for any State bank to own more than ten per cent of the capital stock of any other banking corporation, or to make a loan, secured by the stock of any other banking corporation if by the making of such loan the total stock of such other banking corporation held by it as collateral will exceed in the aggregate 10 per cent of the capital stock of such other banking corporation unless the ownership or the taking of a greater percentage of such capital stock as collateral shall be necessary to prevent loss upon a debt previously contracted in good faith and any such excess so taken as collateral or owned by such State bank shall not be held as collateral nor owned by it for a longer period than six months.

Sec. 30. All State banks and trust companies shall be permitted to loan upon or discount commercial or business paper secured by lien upon cotton and cotton seed products to the same extent and upon the same conditions as is now or may be provided for National banks under the laws of the United States.

Sec. 31. Any bank or trust company created by virtue of a special act of the Legislature of the State of Texas now or hereafter engaged in the general banking business in Texas and which at the time has only one place of business and which has heretofore accepted or may hereafter accept one or more of the provisions of the Acts of the Twenty-ninth Legislature known as the State banking law, thereby submitting itself to the jurisdiction of the State Banking Department, may with the approval of the State Banking Board avail itself of the provisions of this act, either as a bond security bank, or as a guaranty fund bank by vote as prescribed for State banks.

Sec. 32. Any violation of the form of advertisement herein prescribed shall be ground for a prosecution against said bank so violating said provision, and it is hereby made the duty of the Commis-

sioner of Banking of this State to immediately institute a prosecution against the officers and directors of such bank for any violation of said clause, and the officers and directors of any bank permitting any other advertisement than the one herein stipulated with reference to said guaranty of deposits to be made shall, upon conviction, be fined in any sum not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not to exceed twelve months; said offense is hereby defined to be the unlawful advertising of a plan of securing depositors by said bank; provided, that it shall constitute a violation of this act for any bank to advertise in the newspapers, or in any circular, bill heads, letter head, or in any other manner, the plan adopted by such bank for the purpose of securing its depositors other than above stipulated, and it shall constitute and is hereby made an offense for the officers or directors of any banking institution in this State adopting either of the above plans of guaranty to directly or indirectly advertise that the State guarantees the deposits in the bank of which they are directors or officers, and upon conviction they shall be fined as above provided.

Sec. 33. Any National bank in this State may voluntarily avail its depositors of the protection of the bond security system herein provided for State banks.

Sec. 34. Section 44, Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the State of Texas is hereby amended so as to hereafter read as follows:

"Section 44. The Commissioner of Insurance and Banking from time to time shall appoint such number of State bank examiners as may be necessary to make the examinations of banking corporations required by law, which number shall at no time exceed one for each forty banking corporations then subject to examination under the laws of this State. As full compensation for the performance of the duties of examiners each person so appointed shall be entitled to receive a salary of \$2000 per annum, besides necessary traveling expenses. An itemized account of such expenses shall be rendered monthly, under oath, by each examiner and shall be approved by the Commissioner."

Sec. 35. Every president, cashier, director, teller, clerk or agent of any State bank who embezzles, abstracts or willfully misapplies any of the moneys, funds or credits of such State bank, or

who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of such State bank, with intent in either case to defraud such State bank, or any other corporation, body politic, or any individual, person, firm or association or to deceive any officer of such State bank, the Commissioner of Insurance and Banking, or any examiner or special agent, authorized by law to examine the affairs of any such State bank, and every person who, with like intent, aids or abets any officer, clerk or agent in any violation of this section shall be deemed guilty of a felony and shall, upon conviction, be imprisoned in the State penitentiary for a term of not less than five years nor more than ten years.

Sec. 36. Any director of a State bank who shall either directly or indirectly borrow any of the funds of such bank in excess of 10 per cent of its capital and surplus without the consent of a majority of the directors of the bank first having been obtained and made a matter of record at a regular meeting of the board, or without the written consent of such majority of the directors other than the borrowers being jointly executed by them and filed in the archives of such bank before the loan is made, and any officer of a State bank who shall knowingly become indebted to such bank, directly or indirectly, in any sum whatever, without the consent of a majority of the board other than the borrower, obtained or recorded, or filed in like manner, and any officer or director of such bank who shall knowingly loan or assent to the loaning of any of its funds to any officer, or any of its funds to any director, in excess of 10 per cent of its capital and surplus without such consent being first obtained and recorded or filed, or who shall knowingly permit any such officer or director to become indebted to the bank or liable to it without such consent, shall be deemed guilty of a felony and shall be punished by imprisonment in the State penitentiary for a term of not less than two years, upon conviction thereof.

Sec. 37. Any officer, director or employee of any State bank or trust company who knowingly or willfully omits to perform any duty imposed upon him by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less

than five hundred nor more than one thousand dollars, or by imprisonment in the county jail for a term of not less than thirty days nor more than ninety days, or by both such fine and imprisonment.

Sec. 38. Neither the Commissioner of Insurance and Banking nor any regularly appointed clerks or employees of the Department of Insurance and Banking, or any State bank examiner shall, at any time during his incumbency, be financially interested, directly or indirectly, in any State bank or banking and trust company subject to the supervision of the Department of Insurance and Banking, or knowingly be or become indebted, directly or indirectly, in any such State bank or banking and trust company.

Any officer or employee named in this section violating its provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding \$500, and the venue in such case shall be in the county wherein such State bank or banking and trust company is located. The violation of the provisions of this section shall work a forfeiture of the office or position held by the person guilty of such violation.

Sec. 39. Any officer, clerk or agent of any State bank who shall willfully certify to any check or checks before the amount thereof shall have been regularly entered to the credit of the drawer, upon the books of such State bank, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by fine of not less than five hundred nor more than five thousand dollars, or by imprisonment in the State penitentiary for not more than one year, or by both such fine and imprisonment.

Sec. 40. Any State bank examiner or special agent, who shall knowingly and intentionally fail or refuse to notify the Commissioner of Insurance and Banking, in writing, of any violation of the criminal provisions of this act within ten days after the same shall come to his notice or attention, unless such notice shall, within his knowledge, have been previously given by some other bank examiner or special agent, or any Commissioner of Insurance and Banking who shall knowingly and intentionally fail or refuse to notify, in writing, the county or district attorney charged by law with the duty of the prosecution thereof, of any such violation within ten days after the same shall have come to his knowledge or attention, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by

fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than three nor more than twelve months, or by both such fine and imprisonment, and upon conviction shall be removed from office.

Sec. 41. The provisions of this act shall be held to be cumulative of all laws now in force applicable to State banks.

Sec. 42. It shall be unlawful for any State bank or trust company in this State to directly or indirectly loan to the Commissioner of Insurance and Banking or any other person interested in or employed by the Department of the State Insurance and Banking, and it is hereby expressly provided that a violation of this provision shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$1000.

Sec. 43. The fact that there is no law in the State providing for a fund for the protection of depositors in banks and trust companies creates an emergency which requires that the constitutional rule requiring bills to be read on three several days be suspended, and this act take effect from and after its passage, and it is so enacted.

(Minority Report.)

Committee Room,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the minority of your Committee on Insurance, Statistics and History, to whom was referred the House substitute to

Senate bill No. 4, A bill to be entitled "An Act to provide for the effective regulation and supervision of banking corporations, and providing for the better securing of depositors of such corporations; providing for and defining bond security banks, and providing for and defining guaranty fund banks; and providing that all banking corporations heretofore or hereafter formed shall avail their depositors of the protection provided for by this act, either as bond security banks or guaranty fund banks, and that all banks incorporated prior to the adoption of the Constitution of 1876 and all National banks transacting business in this State, may, if they desire, at their option, voluntarily avail their depositors of the protection afforded by this act, either as bond security banks or guaranty fund banks; amending Sections 2, 10, 5, 39, 44, 53 and 55, and repealing Section 40 of Chapter 10 of the Acts of the First Called Session of the Twenty-ninth Legislature of the

State of Texas; prescribing additional regulations and safeguards for the protection of depositors and the safe conduct of banking corporations; prescribing powers and duties of the Commissioner of Insurance and Banking, and creating the State Banking Board, and prescribing its powers and duties, and providing for penalties for the violations of this act, and declaring an emergency."

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass without amendments.

MAYFIELD.

(Floor Report.)

Austin, Texas, May 6, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Privileges and Elections, to whom was referred

House bill No. 76, A bill to be entitled "An Act to amend Section 126 of Chapter 11 of the General Laws of Texas, First Called Session of the Twenty-ninth Legislature, 1905, entitled 'An Act to regulate elections and to provide penalties for its violations and to repeal the acts of the Twenty-eighth Legislature of 1903, regulating elections, general, special and primary, and political conventions, approved April 1, 1903,' and also amend Section 141 of said Chapter 11, as passed at the First Called Session of the Twenty-ninth Legislature, approved April 30, 1907, relative to contests in primary elections,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass, and be not printed.

Thomas, Chairman; Perkins, Terrell of McLennan, Adams, Hume, Real, Ward.

Committee Room,
Austin, Texas, April 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 43, A bill to be entitled "An Act creating an independent school district, for free school purposes only, in the county of Tarrant, to be known as the Mansfield Independent School District, and declaring an emergency,"

And find the same correctly engrossed.
WARD, Chairman.

Committee Room,
Austin, Texas, May 4, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 38, "An Act to create a more efficient road system for Wood county, Texas," etc.,

And find it correctly enrolled, and have this day, at 4:30 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 43, "An Act creating an independent school district for free school purposes only in the county of Tarrant, to be known as the Mansfield Independent School District and to have all the rights, powers and duties of independent school districts formed by general laws, or by the incorporation of towns and villages for free school purposes only, and declaring an emergency,"

And find it correctly enrolled, and have this day, at 5 o'clock p. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Committee Room,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 13, and find it correctly enrolled, and have this day, at 10:50 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:

Senate bill No. 13.

An Act requiring railroad companies to provide adequate and suitable passenger and freight depot buildings at their several stations and requiring them to keep all their passenger depots well lighted and warmed for the comfort and accommodation of the traveling public, and giving the Railroad Commission power to require compliance with this act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be the duty of all railroad companies in this State to provide and maintain adequate, comfortable and clean depots and depot buildings at their several stations for the accommodation of passengers and to keep said depot buildings well lighted and warmed for the comfort and accommodation of the traveling public; provided further, that said railroad companies shall keep and maintain separate apartments in such depot buildings for the use of white passengers and negro passengers, and to keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing and delivering of all freights handled by such roads.

Sec. 2. Power is hereby conferred upon the Railroad Commission of Texas to require compliance by railroad companies with the provisions of this act under such regulations as said Commission may deem reasonable, and all railroad companies shall be subject to the penalties prescribed by law for failure to comply with such requirements.

Sec. 3. The fact that there is no adequate law of this State requiring railroad companies to provide adequate and suitable passenger and freight depot buildings at their several stations, creates an emergency and an imperative public necessity that this act be passed under the suspension of the constitutional rule requiring bills to be read on three several days, and the rule is hereby suspended, and this act shall take effect from and after its passage, and it is so enacted.

Committee Room,
Austin, Texas, May 7, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 39, and find it correctly enrolled, and have this day, at 10:50 o'clock a. m., presented it to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the enrolled bill in full:
Senate bill No. 39.

An Act to authorize incorporated towns, cities, and villages in the State of Texas, to construct permanent street improvements and assess part of the cost thereof against the owners of property abutting upon such improvements and their property and against the owners of railroads or street rail-

roads occupying streets or highways improved and their property, and to provide for the enforcement and collection of such assessments, and to provide for the submission hereof to a vote of the resident property taxpayers who are the qualified voters of such towns, cities, and villages, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That towns, cities, and villages incorporated under either general or special law, which shall accept the benefits of this act as herein provided, shall have power to improve any street, avenue, alley, highway, public place or square or any portion thereof within their limits, by filling, grading, raising, paving or repaving the same in a permanent manner or by the construction or reconstruction of sidewalks, curbs, and gutters, or by widening, narrowing, or straightening the same, and to construct necessary appurtenances thereto, including sewers and drains.

Sec. 2. That the term "city," whenever used herein shall include all incorporated towns, cities and villages; that the term "governing body" whenever used herein shall include the governing or legislative bodies of all incorporated towns, cities or villages, whether known as councils, commissions, boards of commissioners, common councils, boards of aldermen or city councils, or whatever name such bodies may be known or designated under general or special laws; that whenever the term "highway" is used herein, it shall include any street, avenue, alley, highway or public place or square or portion thereof dedicated to public use.

Sec. 3. That the governing body of any city shall have power to order the improvement of any highway therein, or part thereof and to select the materials and methods for such improvement, and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of such improvements out of any available funds of the city or as herein provided.

Sec. 4. That the cost of making such improvements may be wholly paid by the city or part by the city and partly by owners of property abutting thereon, provided, that in no event shall more than three-fourths of the cost of any improvement, except sidewalks and curbs be assessed against such property owners or their property. But the whole cost of construction of sidewalks and curbs

in front of any property may be assessed against the owner thereof or his property.

Sec. 5. Subject to the terms hereof the governing body of any city shall have power to assess against the owner of any railroad or street railroad occupying any highway ordered to be improved the whole cost of the improvement between or under the rails and tracks of said railroad or street railroad and two feet on the outside thereof, and shall have power by ordinance to levy a special tax upon said railroad, or street railroad and its roadbed, ties, rails, fixtures, rights, and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except State, county and municipal taxes, and which may be enforced either by sale of said property in the manner provided by law in the collection of ad valorem taxes by the city or by suit against the owner in any court having jurisdiction. The ordinance levying said tax shall prescribe when same shall become due and delinquent, and the method or methods of enforcing the same.

Sec. 6. Subject to the terms hereof the governing body of any city shall have power by ordinance to assess the whole cost of constructing sidewalks or curbs, and not to exceed three-fourths of the cost of any other improvement, against the owners of property abutting on such improvement and against their abutting property benefited thereby, and to provide for the time and terms of payment of such assessments and the rate of interest payable upon deferred payments thereon, which rate of interest shall not exceed 8 per centum per annum, and to fix a lien upon the property and declare such assessments to be a personal liability of the owners of such abutting property. And such governing body shall have power to cause to be issued in the name of the city assignable certificates, declaring the liability of such owners and their property for the payment of such assessments, and to fix the terms and conditions of such certificates.

If any such certificate shall recite that the proceedings with reference to making such improvements have been regularly had in compliance with law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate, and the personal liability shall be prima facie evidence of the facts so recited and no further proof thereof shall be required in any court.

The ordinance making such assessments shall provide for the collection

thereof with costs and reasonable attorney's fees, if incurred.

Such assessments shall be secured by and constitute a lien on said property which shall be the first enforceable claim against the property against which it is assessed, superior to all other liens and claims, except State, county and municipal taxes.

Sec. 7. Nothing herein contained shall be construed to empower any city to fix a lien by assessment against any property exempt by law from sale under execution, but the owner of such exempt property shall nevertheless be personally liable for the cost of improvements constructed in front of his property which may be assessed against him. The fact that any improvement is omitted in front of exempt property shall not invalidate the lien of assessments made against other property on the highway improved, not so exempt. The lien created against any property or the personal liability of the owner thereof, may be enforced by suit in any court having jurisdiction or by the sale of the property assessed in the same manner as may be provided by law for the sale of property for ad valorem city taxes. The recital in any deed made pursuant to such sale, that all legal prerequisites to said assessment and sale have been complied with, shall be prima facie evidence of the facts so recited and shall in all courts be accepted without further proof.

Sec. 8. No assessment of any part of the cost of such improvement shall be made against any property abutting thereon or its owner, until a full and fair hearing shall first have been given to the owners of such property preceded by a reasonable notice thereof given to said owners, their agents or attorneys; such notice shall be by advertisement inserted at least three times in some newspaper published in the city, town or village where such tax is sought to be improved, if there be such a paper, then, if not, the nearest paper to said city, town or village of general circulation in the county in which said city is located, the first publication to be made at least ten days before the date of the hearing. The governing body may provide for additional notice cumulative of notice by advertisement. Said hearing shall be before the governing body of such cities, at which hearing such owners shall have the right to contest the said assessment and personal liability, and the regularity of the proceedings with reference to the improvement, and the benefits of said improvement to their

property, and any other matter with reference thereto.

But no assessment shall be made against any owner of abutting property or his property in any event in excess of the actual benefit to such owner in the enhanced value of his property by means of such improvements as ascertained at such hearing.

The governing body of any city making improvements under the terms hereof shall by ordinance adopt rules and regulations providing for such hearings to property owners, and for giving reasonable notice thereof.

Sec. 9. The governing body of any city shall be empowered to correct any mistake or irregularity in any proceedings with reference to such improvement or the assessment of the cost thereof against abutting property and its owners, and in case of any error or invalidity to reassess against any abutting property and its owner the cost or part of the cost of improvements subject to the terms hereof, not in excess of the benefits in enhanced value of such property from such improvements, and to make reasonable rules and regulations for a notice to and hearing of property owners before such reassessment.

Sec. 10. Any property owner against whom or whose property any assessment or reassessment has been made shall have the right within twenty days thereafter to bring suit in any court having jurisdiction to set aside or correct the same or any proceeding with reference thereto on account of any error or invalidity therein. But thereafter such owner, his heirs, assigns or successors shall be barred from any such action, or any defense of invalidity in such proceedings or assessment or reassessment in any action in which the same may be brought in question.

Sec. 11. The benefits of this act shall apply to any city and the terms thereof extend to the same when the governing body thereof shall submit the question of the adoption or rejection hereof to a vote of the resident property tax payers who are qualified voters of said city, either at a regular election or a special election called for the purpose by said city. And said election shall be held as nearly as possible in compliance with the law with reference to regular city elections in said city; but said governing body is hereby empowered by resolution to order said election and prescribe the time and manner of holding the same. Said body shall canvass and determine the results of such election and if a majority of the voters voting upon

the question of the adoption of this act at such election shall vote to adopt the same, the result of the election shall by said governing body be entered upon their minutes, and thereupon all the terms hereof shall be applicable to and govern such city adopting the same. A certified copy of said minutes shall be prima facie evidence of the result of such election and the regularity thereof and the facts therein recited shall in all courts be accepted as true. Whenever this act has been adopted by any city the governing body thereof shall have full power to pass all ordinances or resolutions necessary or proper to give full force and effect thereto and to every part thereof. Whenever 100 qualified voters in any city shall in writing petition for an election to determine the adoption of this act, it shall be the duty of its governing body to order such election.

Sec. 12. This act shall not repeal any law, general or special, already in existence, pertaining to the making of such improvements, but the provisions of this act and of resolutions or ordinances passed pursuant thereto, shall be cumulative of and in addition to such existing laws; provided, that in any case in which a conflict may exist or arise between the provisions of this act and the provisions of any law granting a special charter to any city in this State, the provisions of such special charter shall control.

Sec. 13. The fact that many cities have no general funds out of which street improvements can be constructed and no charter powers under which the cost thereof can be collected from owners of abutting property benefited thereby or from public service corporations occupying the streets, and the fact that such improvements are urgently needed, and that the citizens of many cities are anxious to obtain the benefits of this act, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring the reading of bills on three several days in each house, and said rule is hereby suspended, and this act shall take effect from and after its passage, and it is so enacted.

Committee Room,

Austin, Texas, May 6, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 17, and find it correctly enrolled, and have this day,

at 10:45 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the bill in full:

S. B. No. 17.

By Alexander.

An Act to amend Article 642 of the Revised Civil Statutes of Texas of 1895, as amended by Chapter 130, Acts of the Twenty-fifth Legislature, Chapter 43, Acts of the Twenty-sixth Legislature, Chapter 43, Acts of the Twenty-seventh Legislature, and Chapter 129 of the Twenty-eighth Legislature, Chapter 62, Acts of the Twenty-ninth Legislature, Chapter 150, Acts of the Thirtieth Legislature, by amending Subdivision 61 thereof, and authorizing the formation of corporations for the construction and operation of interurban, electric, gas or gasoline, denatured alcohol or naphtha motor railways, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 642 of the Revised Civil Statutes of the State of Texas as amended in Chapter 130, Acts of the Twenty-fifth Legislature, Chapter 43, Acts of the Twenty-sixth Legislature, and Chapter 43, Acts of the Twenty-seventh Legislature, and Chapter 129, Acts of the Twenty-eighth Legislature, Chapter 62, Acts of the Twenty-ninth Legislature, Chapter 150, Acts of the Thirtieth Legislature, be amended by the addition of Subdivision 61, amended to read as follows:

"61. The construction, acquiring, maintaining and operating lines of electric, gas or gasoline, denatured alcohol, or naphtha motor railways within and between any cities or towns in this State for the transportation of freight or passengers, and may also construct, own and operate union depots, but no electric, gas or gasoline, denatured alcohol or naphtha railways incorporated under this subdivision shall ever be exempt from the payment of assessments that may be legally levied or assessed against it for street improvements. Corporations created under this subdivision shall be and are authorized to exercise the right of eminent domain for the purpose of acquiring right of way upon which to construct their railway lines and sites for depots and power plants, upon the same conditions and in the same manner as railroad corporations are now required to do under the laws of this State, and shall have the same powers, rights and privileges as are now granted to in-

terurban electric railway companies by Chapter 15, Acts of the Thirtieth Legislature and all the powers of whatsoever kind or character conferred by said act; provided, no property upon which is located a cemetery shall ever be condemned unless it shall affirmatively be shown and so found by the court trying in such condemnation suits that it is necessary to take such property, and no other route is possible or practicable; and provided, that the electric, gas or gasoline, denatured alcohol, or naphtha railways incorporated under provisions of this act which shall engage in transporting freight shall be subject to the control of the Railroad Commission."

Sec. 2. The crowded condition of the calendar and there being no law now authorizing the incorporation of gas or gasoline, denatured alcohol or naphtha railways, creates an emergency and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the said rule is therefore suspended, and this act shall take effect from and after its passage, and it is so enacted.

TWENTIETH DAY.

Senate Chamber,

Austin, Texas,

Saturday, May 8, 1909.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

The roll was called, a quorum being present, the following Senators answering to their names:

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Cofer.	Real.
Greer.	Senter.
Harper.	Stokes.
Hayter.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Terrell of McLennan.
Hume.	Ward.
Kellie.	Watson.
Masterson.	Weinert.
Mayfield.	Willacy.

Absent.

Meachum.	Veale.
Thomas.	

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of

yesterday, on motion of Senator Stokes, the same was dispensed with.

Morning call concluded.

HOUSE BILL NO. 5.

The Chair laid before the Senate, on second reading and regular order,

House bill No. 5, A bill to be entitled "An Act providing for the completion by the Penitentiary Board of Commissioners of the railroad now owned by the State of Texas at Rusk Penitentiary, for its maintenance, equipment and operation; providing for condemnation of right of way and material therefor, and other property; providing for condemnation proceedings; providing for the issuance of bonds by the Board of Penitentiary Commissioners aggregating \$200,000, bearing interest at 5 per cent per annum; providing that \$150,000 shall be used to redeem bonds issued under and by virtue of Chapter 74 of the Acts of the Thirtieth Legislature; providing a lien upon said State railroad, its equipment; providing a method of redemption of said bonds; providing for authority to said board to accept gifts and donations to aid in the construction of said railroad; providing for the purchase of said bonds by the Board of Education out of the permanent school fund; providing that this act shall be cumulative of all other laws in force in this State, and declaring an emergency."

HOUSE BILL NO. 51.

Senator Bryan called up House bill No. 51, which was on the table subject to call, and the Chair laid before the Senate, on second reading,

House bill No. 51, A bill to be entitled "An Act relating to, and to provide for a more systematic, efficient and economical method of bookkeeping and accounting for the General Land Office of the State of Texas, as pertains to the keeping of accounts and data relative to the public lands of the State, the sales thereof, and payment and collection of principal and interest thereon, and providing for forfeiture and cancellation of sales; repealing Article 4046 of Chapter 2 of Title 87 of the Revised Civil Statutes of 1895, relating to the filing and endorsement of papers and documents placed in the General Land Office; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

The question on the bill was the pend-